

## SENATE BILL No. 400

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-51-3-6.

**Synopsis:** Punitive damages. Provides that when an award for punitive damages is made in a civil case, the state becomes a judgment creditor of the part of the punitive damage award (75%) that would be deposited in the violent crime victims compensation fund. Permits the attorney general to settle or compromise claims affecting the punitive damage award.

**Effective:** July 1, 2002.

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January 10, 2002, read first time and referred to Committee on Judiciary.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## SENATE BILL No. 400

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 34-51-3-6 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) Except as  
3       provided in IC 13-25-4-10, when a judgment that includes a punitive  
4       damage award is entered in a civil action, the party against whom the  
5       judgment was entered shall pay the punitive damage award to the clerk  
6       of the court where the action is pending.

7       (b) **Except as provided in subsection (d)**, upon receiving the  
8       payment described in subsection (a), the clerk of the court shall:

9           (1) pay the person to whom punitive damages were awarded  
10          twenty-five percent (25%) of the punitive damage award; and

11          (2) pay the remaining seventy-five percent (75%) of the punitive  
12          damage award to the treasurer of state, who shall deposit the  
13          funds into the violent crime victims compensation fund  
14          established by IC 5-2-6.1-40.

15       (c) **Upon entry of a judgment that includes a punitive damage**  
16       **award, the state becomes a judgment creditor on behalf of the**  
17       **violent crime victims compensation fund (IC 5-2-6.1-40) of the part**



1 of the punitive damage award described in subsection (b)(2). The  
2 state may make use of any legal remedy available to a judgment  
3 creditor, including the use and enforcement of a judgment lien. The  
4 state stands on equal footing with the original plaintiff to secure a  
5 recovery after the compensatory damages part of the judgment has  
6 been satisfied. Following the entry of judgment, the state may  
7 intervene in the case as a judgment creditor.

8 (d) The attorney general may settle or compromise the part of  
9 the punitive damage award described in subsection (b)(2). If the  
10 attorney general settles or compromises the fund's part of the  
11 punitive damages award, the clerk shall forward the settled or  
12 compromised sum to the treasurer of state instead of the sum  
13 established in subsection (b)(2). The settlement or compromise of  
14 the fund's part of the punitive damage award does not affect the  
15 amount awarded to the original plaintiff under the judgment or  
16 under subsection (b)(1). The attorney general may hire counsel to  
17 collect the fund's part of a punitive damage award, and the  
18 attorney general may compensate counsel from the amount of  
19 punitive damages collected on behalf of the fund.

20 (e) The clerk of the court shall notify the attorney general in  
21 writing of any judgment in which there is an award of punitive  
22 damages within ten (10) days of the entry of judgment. The clerk  
23 shall file a copy of the notice with the court. A party may not  
24 execute any part of the judgment until notice is made and filed with  
25 the court.

26 (f) IC 4-6-2-11 applies to any settlement or compromise of a  
27 punitive damages judgment that affects the state's interest as a  
28 judgment creditor. A settlement or compromise of the state's  
29 interest in a punitive damages judgment that does not comply with  
30 IC 4-6-2-11 is void and shall be vacated upon motion of the state.

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